Defence (192/) Departmental

Miscell. SERIES.

G.O. No. 274

DATED

[Despatch Abstract.]

- September

Question No. 578 — Escheat

- portion of Kaipara Harbour

Received in the fair-copying section 16.8.21

Copied by [illegible] 16.8

Examined by V.A. 16/8. Readley Wrf 16/8

Signed [illegible]

Despatched [illegible]

(a) The summary of the facts given by the hon'ble member is ~~faulty~~ substantially accurate except. The Govt have no information regarding the annual profits derived from the property since 1907

Govt pleader's opinion at p 3 of P.P. 589 1/3/20 - (P)

Q answer to Lequr Please show me answer before 10 Sir 10/8/21

col 10 at p 2 of Ko 737 11/8/20 - (W)

Sir Charles Todhunter's note at p 11 of Ko 672 4/12/20 - (H)

Q^n no 568

Clause (a) The facts of the case are more or less as stated in clause (a) of the question

Clause (b) The claim of the heirs found to be entitled to the property for ~~the past~~ mesne profits is barred by limitation and is not admissible in law. ~~The~~ Claimants to the property before this claim were invited in 1904 and the parties now declared to be the rightful heirs apparently did not claim till 10 years ~~after~~ later. The Govt are not prepared to reconsider the orders already passed.

Government of Madras.
Revenue Department.

Question No.90 :

Mr. P. Sadasiva Bhat.

To ask the Hon'ble the Law Member to state--

(a) if it is a fact

(i) that the Government decided to escheat the property of one Kalpe Subraya deceased in Ubaradka-Mithur village in South Kanara district and obtained possession of the same,

(ii) that the legal heirs of the said Subraya filed O.S. 353/1915 to declare their title and for possession against the Government,

(iii) that the suit was dismissed by the Original and First Appellate Courts on a technical question, but the High Court in S.A. 2379/1917 granted a decree for possession and profits at the rate pleaded by the Government,

(iv) that the Government had actually collected the profits of the property from the year 1907 and that the rate of profits actually collected since the suit was nearly Rs.500 per ~~mm~~ annum, a rate much higher than that pleaded by the Government,

(v) that the rightful claimants were paid by the Government only the profits at the admitted rate and from 1915; and declined to pay the~~x~~ profits collected by the Government since 1907 although the claimants prayed for the same,

(vi) that the Board of Revenue and the Government in G.O. No.1.672 Revenue, dated 6-12-1920, declined to interfere in the matter; and

(b) whether the Government will be pleased to make a statement giving the grounds for the said order and remove the impression that the Government is detaining moneys wrongfully received on a technical excuse ; or reconsider the said order with a view to do justice to the heirs found to be rightfully entitled to the property.

ANSWER

No.563. (a). The summary of the facts given by the Hon'ble Member is substantially accurate. The Government have no information regarding the exact annual profits derived from the property since 1907.

(b). The claim of the heirs found to be entitled to the property for mesne profits is barred by limitation and is not admissible in law. Claimants to the property were invited to prefer their claims in 1904 and the parties now declared to be the rightful heirs apparently did not claim till 10 years

later. The Government are not prepared to reconsider the orders already passed.

Fort St. George, 16th August 1921

F.B.Lloyd,
Ag. Secretary to Government.

To

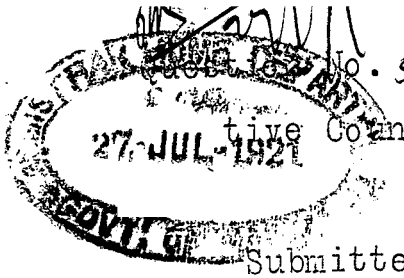
The Legislative Council Office.

The above answer has been approved by the Hon'ble Khan Bahadur Muhammad Habib-ul-lah Sahib Bahadur, C.I.E.

Forwarded to the Legislative Council Office.

(By Order)

Legislative Council Office.



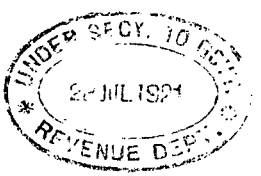
No. 568 for the meeting of the Legislative Council to be held on the 1st Aug. 1921.

Submitted that two copies of this Question may be forwarded to the Law (General) Department. The question has been admitted

L9 30958
27.7.21.
L.D.S.
26/7

U.O.No. 1908-10 dated 26-7-21

To The Law (General) Department.



To. Undersecretary

Please see the Legislative Council Q" at page 81-82 ante

2 A brief history of the escheat case referred to in the question will be found in the note at pages 19-21 of B.P no 589 dt 1-3-20. and the Secretary's note at pages 10-11 of Go no 642 R dt 4-12-20. The facts of the case are as stated in clause (a) of the question except in regard to the latter half of subclause IV for which there is no specific authority the only statement in support of this is that in para 6 of the memorial at page 3 of Go no 642 Re dt. 4-12-20.

As regards clause (b) of the question attention is solicited to the wording of the High Courts decree which directs that the payment of mesne profits from 16.3.15 till the date of delivery or till the expiration of three years from the date of the decree whichever happens first. The Claim for the past mesne profits is barred by limitation and is not admissible in Law. Also in view

of the Considerable expense which the Case had entailed on Govt the Board have no justification for any special Concession. Attention is also solicited to Sir Charles Todhunter's note at page 11 of Ep. no 672 R of 24.12.20 ~~wherein he remarked that~~ the Govt supported the Board for the additional reason that claimants were invited before escheating the property and the parties did not claim apparently till 10 years after

A draft answer is submitted for approval.

3.8.21.

38/21

separate sheet may be appended

ER 3/8/21

I would accept the draft answer on the separate sheet put up below. It is desirable in these cases to avoid further worry over it

WG
13.8.21

ER 15/8/21

To Miss Fry.

A draft order recording the papers is submitted for approval.

[illegible]
19/8/21

Circulated 3.8.21
Returned 13.8.21

Scott. II-10 (a)—35,106—9-2-20.

Received in the fair-copying section.....

Copied by.....

Examined by.....

Signed.....

Despatched.....

READ AGAIN G.O. No.

" " " "

READ ALSO:—

C. No.

" "

" "

Clear 1164E/21

Revenue DEPARTMENT.

Legislative Council — September 1921 — Question No. 518 — Escheat of property of Kaipe Subraya in South Kanara

Escheat of property of Kaipe Subraya in South Kanara.

518 Q.—Mr. K. SADASIVA BHAT: To ask the Hon'ble the Member for Revenue to state—

(a) if it is a fact

(i) that the Government decided to escheat the property of one Kaipe Subraya deceased in Ubaradka-mithur village in South Kanara district and obtained possession of the same,

[1st September 1921

(ii) that the legal heirs of the said Subraya filed O.S. No. 353/1915 to declare their title and for possession against the Government, 192

(iii) that the suit was dismissed by the Original and First Appellate Courts on a technical question, but the High Court in S.A. No. 2379/1917 granted a decree for possession and profits at the rate pleaded by the Government, 192

(iv) that the Government actually collected the profits from the property from the year 1907 and that the rate of profits actually collected since the suit was nearly Rs. 500 per annum, a rate much higher than that pleaded by the Government, 192

(v) that the rightful claimants were paid by the Government only the profits at the admitted rate and from 1915; and declined to pay the profits collected by the Government since 1907 although the claimants prayed for the same, 192

(vi) that the Board of Revenue and the Government in G.O. R. No. 672 Revenue, dated 6th December 1920, declined to interfere in the matter; and 192

(b) whether the Government will be pleased to make a statement giving the grounds for the said order and remove the impression that the Government is detaining moneys wrongfully received on a technical excuse; or reconsider the said order with a view to do justice to the heirs found to be rightfully entitled to the property.

A.—(a) The summary of the facts given by the Honourable Member is substantially accurate. The Government have no information regarding the exact annual profits derived from the property since 1907.

(b) The claim of the heirs found to be entitled to the property for *mesne* profits is barred by limitation and is not admissible in law. Claimants to the property were invited to prefer their claims in 1904 and the parties now declared to be the rightful heirs apparently did not claim till ten years later. The Government

G.O. Mis. No. 2171 dt 29.9.21

Recorded

28.9.21.